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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,028	11/21/2003	Randy D. Jester	1725 (TI-02-3)	3210
40256	7590	10/05/2005	EXAMINER	
FERRELLS, PLLC			MIGGINS, MICHAEL C	
P. O. BOX 312			ART UNIT	
CLIFTON, VA 20124-1706			PAPER NUMBER	

1772

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,028

Applicant(s)

JESTER, RANDY D.

Examiner

Michael C. Miggins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

REJECTIONS WITHDRAWN

1. The 35 USC 102(e) rejection set forth in the non-final rejection of 4/27/05, pages 2-3, paragraph 5, of claims 1-12 and 25-20 as anticipated by Hausmann has been withdrawn. The 35 USC 103(a) rejection set forth in the non-final rejection of 4/27/05, pages 4-5, paragraph 9, of claims 1-11 and 25-30 as obvious over Hausmann has been withdrawn.

REJECTIONS REPEATED

2. The 35 USC 102(e) rejection set forth in the non-final rejection of 4/27/05, pages 3-4, paragraph 6 of claims 1-30 as anticipated by Hirose is repeated for the reasons of record. The 35 USC 103(a) rejection set forth in the non-final rejection of 4/27/05, pages 5-6, paragraph 10 as obvious over Hirose is repeated for the reasons of record.

NEW REJECTIONS

3. There are no new rejections.

ANSWERS TO APPLICANT'S ARGUMENTS

4. Applicant's arguments and declaration of 7/12/05 have been carefully considered but are deemed unpersuasive. Applicant's arguments with regard to Hausmann have been considered but are moot since the rejection has been withdrawn.

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Applicant has argued that Hirose reference does not provide guidance to person of ordinary skill in the art how to make films which are suitable for low temperature heat sealing, or which contain a layer consisting essentially of a cycloolefin copolymer with a Tg of between about 30 and 55 degrees C. Applicant's limitation "suitable for heat sealing at low temperatures" is an intended use limitation which has been given little to no patentable weight since it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). Although applicant's submission of a declaration claiming the criticality of the claimed Tg of between 30 and 55 degrees C is appreciated and has been given careful consideration, it is not persuasive since Hirose discloses COC's with a Tg range of 50 to 180 degrees C which is right in applicant's range of 20 to 55 degrees C and thus the reference anticipates applicant's claimed range.

Applicant has argued that Hirose does not disclose how much COC to use. However, applicant does not claim a concentration for COC in claim 1. Applicant's arguments with regard to the favorable hot tack strength of COC's with a Tg in applicant's claimed range is appreciated but is unpersuasive since applicant's Tg range is anticipated as described above. Furthermore, at least in claim 1, applicant does not claim a hot tack. Also, properties such as hot tack is inherent because Hirose discloses the exact COC's disclosed by applicant and the range for Tg is anticipated by Hirose as discussed above.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MCM
October 3, 2005

Michael C. Miggins
Primary Examiner
Art Unit 1772

A handwritten signature in black ink, appearing to read "Michael C. Miggins", with a stylized flourish at the end.